

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1564-PST-E TCEQ ID: RN102223435 CASE NO.: 36544
RESPONDENT NAME: FARHAN MEMON DBA PEACHTREE

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 11111 Walnut Hill Lane, Dallas, Dallas County

TYPE OF OPERATION: Convenience store with retail sales of gasoline.

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional enforcement actions pending against this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired July 6, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. James Nolan, Waste Enforcement Section, MC 149, (512) 239-6634

TCEQ Regional Contact: Mr. Sam Barrett, Abilene Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Farhan Memon, Owner, Peachtree, 11111 Walnut Hill Lane, Dallas, Texas 75328

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: April 14, 2008, and August 19, 2008</p> <p>Date of NOE Relating to this Case: August 21, 2008</p> <p>Background Facts: The EDPRP was filed March 10, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on March 12, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not taken corrective actions for any of the violations. The Respondent does not have a current delivery certificate.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to maintain Stage II records at the Station and failed to make them immediately available for review upon request [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$5,046</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$5,046</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with all the requirements of this order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, begin maintaining all Stage II records at the Station. Within 10 days, surrender his UST delivery certificate to the TCEQ. Within 30 days, conduct the required annual and triennial testing for the Stage II Vapor Recovery System. Within 45 days, submit written certification demonstrating compliance.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	25-Aug-2008	Screening	15-Sep-2008	EPA Due	
	PCW	3-Feb-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Farhan Memon dba Peachtree		
Reg. Ent. Ref. No.	RN102223435		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36544	No. of Violations	2
Docket No.	2008-1564-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 10.0% Enhancement Subtotals 2, 3, & 7 \$350

Notes Penalty enhancement due to two previous similar NOV's.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$1,214
Approx. Cost of Compliance	\$1,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$3,850

OTHER FACTORS AS JUSTICE MAY REQUIRE 31.1% Adjustment \$1,196

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation number two.

Final Penalty Amount \$5,046

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$5,046

DEFERRAL 0.0% Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$5,046

Screening Date 15-Sep-2008

Docket No. 2008-1564-PST-E

PCW

Respondent Farhan Memon dba Peachtree

Policy Revision 2 (September 2002)

Case ID No. 36544

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102223435

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995, (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Penalty enhancement due to two previous similar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 15-Sep-2008		Docket No. 2008-1564-PST-E		PCW	
Respondent Farhan Memon dba Peachtree		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36544		<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN102223435					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator James Nolan					
Violation Number	<div style="border: 1px solid black; padding: 2px;">1</div>				
Rule Cite(s)	<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)</div>				
Violation Description	<div style="border: 1px solid black; padding: 2px;">Failed to maintain Stage II records at the Station and make them immediately available for review upon request.</div>				
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>	
>> Environmental, Property and Human Health Matrix					
OR	Release	Major	Harm Moderate	Minor	Percent <div style="border: 1px solid black; padding: 2px;">0%</div>
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <div style="border: 1px solid black; padding: 2px;">10%</div>
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
Matrix Notes	<div style="border: 1px solid black; padding: 2px;">100% of the rule requirement was not met.</div>				
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$9,000</div>	
					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">1</div>	Number of violation days		<div style="border: 1px solid black; padding: 2px;">1</div>
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$1,000</div>		
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	single event	x			
<div style="border: 1px solid black; padding: 2px;">One single event is recommended.</div>					
Good Faith Efforts to Comply					
		0.0% Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>	
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Subtotal <div style="border: 1px solid black; padding: 2px;">\$1,000</div>			
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>				
N/A	x				
Notes	<div style="border: 1px solid black; padding: 2px;">The Respondent does not meet the good faith criteria for this violation.</div>				
Economic Benefit (EB) for this violation					
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$18</div>	Statutory Limit Test		
				Violation Final Penalty Total	<div style="border: 1px solid black; padding: 2px;">\$1,442</div>
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px;">\$1,442</div>

Economic Benefit Worksheet**Respondent** Farhan Memon dba Peachtree**Case ID No.** 36544**Reg. Ent. Reference No.** RN102223435**Media** Petroleum Storage Tank**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	14-Apr-2008	5-Jan-2009	0.73	\$18	n/a	\$18
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records. Date Required is the initial investigation date. Final Date is the estimated date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance****\$500****TOTAL****\$18**

Screening Date 15-Sep-2008		Docket No. 2008-1564-PST-E		PCW
Respondent Farhan Memon dba Peachtree		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36544		<small>PCW Revision June 12, 2008</small>		
Reg. Ent. Reference No. RN102223435				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator James Nolan				
Violation Number		<div style="border: 1px solid black; padding: 2px;">2</div>		
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)</div>		
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing has not been conducted.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>

>> Environmental, Property and Human Health Matrix						
OR	Release	Harm	Major	Moderate	Minor	Percent
	Actual					
	Potential	x				
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor		Percent
						0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.					
Adjustment						<div style="border: 1px solid black; padding: 2px;">\$7,500</div>
						<div style="border: 1px solid black; padding: 2px;">\$2,500</div>

Violation Events															
Number of Violation Events	<div style="border: 1px solid black; padding: 2px;">1</div>	Number of violation days	<div style="border: 1px solid black; padding: 2px;">1095</div>												
<small>mark only one with an x</small>	<div style="border: 1px solid black; padding: 2px;"> <table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 50%;">daily</td><td style="width: 50%;"></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table> </div>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty	
daily															
monthly															
quarterly															
semiannual															
annual															
single event	x														
		<div style="border: 1px solid black; padding: 2px;">\$2,500</div>													
One single event is recommended for the three year period preceding the 08/19/2008 investigation.															

Good Faith Efforts to Comply		0.0% Reduction	\$0
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	
Ordinary	<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>	
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal			<div style="border: 1px solid black; padding: 2px;">\$2,500</div>

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<div style="border: 1px solid black; padding: 2px;">\$1,196</div>	Violation Final Penalty Total	<div style="border: 1px solid black; padding: 2px;">\$3,604</div>
This violation Final Assessed Penalty (adjusted for limits)			<div style="border: 1px solid black; padding: 2px;">\$3,604</div>

Economic Benefit Worksheet

Respondent Farhan Memon dba Peachtree

Case ID No. 36544

Reg. Ent. Reference No. RN102223435

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	19-Aug-2005	19-Aug-2008	3.92	\$196	\$1,000	\$1,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for annual and triennial testing of the Stage II equipment. Date Required is three years prior to investigation. Final Date is the date of investigation.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Compliance History Report

Customer/Respondent/Owner-Operator: CN602680662 MEMON, FARHAN Classification: AVERAGE Rating: 2.33
Regulated Entity: RN102223435 PEACHTREE Classification: AVERAGE Site Rating: 2.33
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 39407
Location: 11111 WALNUT HILL LN, DALLAS, TX, 75238 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: October 14, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 15, 2003 to September 15, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: James Nolan Phone: (512) 239-6634

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/06/2004	(275173)
2	12/29/2004	(344342)
3	03/03/2005	(372715)
4	05/15/2008	(671172)
5	08/21/2008	(700498)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/29/2004 (344342)

Self NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to provide proof of attendance and completion of the training specified in §115.248 (State-approved Stage II training course), with the documentation of all Stage II training for each employee to be maintained as long as that employee continues to work at the facility, and for the facility representative.

Self NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain a record of maintenance conducted on any part of the Stage II equipment, including a general part description, the date and time the equipment was taken out of service, the date of repair or replacement, the replacement part manufacturer's information, a general description of the part location in t

Self NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101, Determination of Vapor Space M

Self Report? NO

Classification Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections of the Stage II vapor recovery system for the defects specified in §115.242(3)(A) - (F), (H), and (K), & §115.242(4).

Self Report? NO

Classification Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct monthly inspections of the components listed in §115.242(3)(J).

Self Report? NO

Classification Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks

Self Report? NO

Classification Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(K)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including a system monitor or printer that is malfunctioning or out of paper.

Date: 05/22/2008 (671172)

Self Report? NO

Classification Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: The facility failed to maintain records on-site and immediately available for review.

Self Report? NO

Classification Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: The facility has failed to successfully conduct annual or triennial testing.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FARHAN MEMON DBA
PEACHTREE;
RN102223435

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2008-1564-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent and revocation of the respondent's fuel delivery certificate. The respondent made the subject of this Order is Farhan Memon dba Peachtree ("Mr. Memon").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Memon owns and operates a convenience store with retail sales of gasoline at 11111 Walnut Hill Lane in Dallas, Dallas County, Texas (the "Station").
2. Mr. Memon's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Memon's USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection on August 19, 2008, the City of Dallas Air Pollution Control Program's investigator documented that Mr. Memon violated the following requirements:
 - a. Failed to maintain Stage II records at the Station and failed to make them immediately available for review upon request; and
 - b. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least

once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing was not conducted.

4. Mr. Memon received notice of the violations on or about August 26, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Farhan Memon dba Peachtree" (the "EDPRP") in the TCEQ Chief Clerk's office on March 10, 2009.
6. By letter dated March 10, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Memon with notice of the EDPRP. According to the return receipt "green card", Mr. Memon received notice of the EDPRP on March 12, 2009, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Memon received notice of the EDPRP, provided by the Executive Director. Mr. Memon failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Memon is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Memon failed to maintain Stage II records at the Station and failed to make them immediately available for review upon request, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Memon failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Memon with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

5. As evidenced by Finding of Fact No. 7, Mr. Memon failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Memon and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Memon for violations of the Texas Water Code and the Texas Health and Safety Code, within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of five thousand forty-six dollars (\$5,046.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
9. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Memon's UST fuel delivery certificate if the Commission finds that good cause exists.
10. Good cause for revocation of Mr. Memon's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6 and 7, and Conclusions of Law Nos. 2, 3, 4 and 5.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Memon is assessed an administrative penalty in the amount of five thousand forty-six dollars (\$5,046.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Memon's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Farhan Memon dba Peachtree; Docket No. 2008-1564-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Memon's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Mr. Memon may submit an application for a new delivery certificate only after Mr. Memon has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Mr. Memon shall send his UST fuel delivery certificate to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Mr. Memon shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Memon shall begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246;
 - b. Within 30 days after the effective date of this Order, Mr. Memon shall conduct the required annual and triennial testing for the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.245;
 - c. Within 45 days after the effective date of this Order, Mr. Memon shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 3 through 4.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the

possibility of fine and imprisonment for knowing violations.”

Mr. Memon shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 3 through 4.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

And a copy to:

Mr. David Miller, P.E.
Manager, City of Dallas Air Pollution Control
320 E. Jefferson Blvd.
Room LL13
Dallas, Texas 75203

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Mr. Memon. Mr. Memon is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If Mr. Memon fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Memon's failure to comply is not a violation of this Order. Mr. Memon shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Memon shall notify the Executive Director within seven days after Mr. Memon becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Memon shall be made in writing to the Executive Director. Extensions are not effective until Mr. Memon receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Memon if the Executive Director determines that Mr. Memon has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LAURENCIA N. FASOYIRO

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

"My name is Laurencia N. Fasoyiro. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Farhan Memon dba Peachtree" (the "EDPRP") was filed with the Office of the Chief Clerk on March 10, 2009.

I sent the EDPRP to Mr. Memon at his last known address on March 10, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Mr. Memon received notice of the EDPRP on March 12, 2009, as evidenced by the signature on the card.

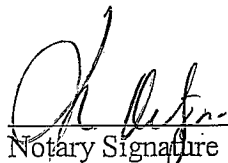
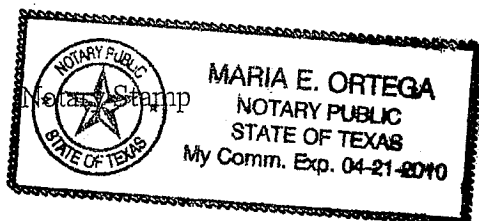
More than 20 days have elapsed since Mr. Memon received notice of the EDPRP. Mr. Memon failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference".



Laurencia N. Fasoyiro
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Laurencia N. Fasoyiro, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 21 day of May, A.D., 2009.



Notary Signature